

Message Text

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PAGE 01 MONTEV 02613 071809Z
ACTION SCS-03

INFO OCT-01 ARA-10 ISO-00 L-03 H-01 DHA-02 SCA-01
/021 W

-----089854 071811Z /45

P 071728Z JUL 77
FM AMEMBASSY MONTEVIDEO
TO SECSTATE WASHDC PRIORITY 4191

LIMITED OFFICIAL USE MONTEVIDEO 2613

E.O. 11652: NA
TAGS: CARR, UY
SUBJ: LEGAL REPRESENTATION AVAILABLE TO AMERICANS ARRESTED ABROAD

REF: STATE 147704; 76 MONTEVIDEO A-44

1. BEGIN UNCLASSIFIED. "PUBLIC DEFENDER" LEGAL COUNSEL IS REQUIRED TO BE PROVIDED GRATIS TO PRISONERS, INCLUDING US NATIONALS WHO ARE UNABLE TO AFFORD PRIVATE COUNSEL. ACCORDING TO URUGUAYAN LAW, A PERSON ARRESTED BY POLICE FOR AN OFFENSE FALLING UNDER THE ORDINARY PENAL CODE (OPC) IS TO APPEAR WITHIN 24 HOURS BEFORE A CIVILIAN JUDGE, WHO DECIDES IF THERE IS ENOUGH EVIDENCE TO SEND TO OFFENDER TO JAIL, IN WHICH CASE HE ISSUES A DECREE OF "PROCESAMIENTO". HE THEN APPOINTS A PUBLIC DEFENDER IF PERSON ARRESTED SAYS HE HAS NO FUNDS FOR COUNSEL. PUBLIC DEFENDERS, WHO ARE CRIMINAL LAWYERS ALMOST ALWAYS ALSO ENGAGED IN PRIVATE PRACTICE, ARE CONSIDERED GOOD ACCORDING TO EMBASSY LAWYER. HE ALSO SAYS TRANSLATOR IS PROVIDED AT PUBLIC EXPENSE.

2. A PERSON ARRESTED FOR "CRIMES AGAINST THE NATION" UNDER NATIONAL SECURITY LAW OF 1972 IS SUBJECT TO THE MILITARY COURT SYSTEM, AND THE MILITARY
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PENAL CODE (MPC) DOES NOT PROVIDE THE SAME GUARANTEES AS THE OPC. END UNCLASSIFIED.

3. BEGIN LIMITED OFFICIAL USE. ROLE OF ATTORNEYS IN SAFEGUARDING RIGHTS OF THOSE ACCUSED OF TERRORISM, SUBVERSION, AND OTHER "CRIMES AGAINST THE NATION" MAY HAVE BEEN DIMINISHED BY GOU'S TURNING OVER THE

PRE-TRIAL INVESTIGATION, ARRAIGNMENT, TRIAL AND POSSIBLE SENTENCING OF SUCH SUSPECTS TO MILITARY COURT SYSTEM. THERE ARE INDICATIONS THAT THE ROLE OF DEFENSE LAWYERS HAS BEEN REDUCED, IN THE WORDS OF ONE SOURCE, TO THAT OF A "DECORATIVE" ONE. ROLE OF DEFENSE LAWYERS, ACCORDING TO ONE ALLEGATION, HAS NOW DETERIORATED TO SUCH AN EXTENT THAT MANY WHO HAD PREVIOUSLY BEEN WILLING TO DEFEND THESE SUSPECTS NOW WANT TO RENOUNCE ANY FUTURE ROLE IN SUCH PROCEEDINGS. APPARENTLY, AS CIVILIAN ATTORNEYS, THEY HAVE RUN INTO SUCH HOSTILITY FROM THE MILITARY JUDGES THAT THEY THOUGHT THIS HINDERED RATHER THAN HELPED THEIR CLIENTS AND ARE NOW RECOMMENDING TO ANY SUCH PRISONERS WHO SOLICIT THEIR SERVICES THAT THEY SHOULD ASK THE MILITARY COURTS TO APPOINT A MILITARY OFFICER TO DEFEND THEM.

4. NOTE: TO OUR KNOWLEDGE, IN THE PAST THREE YEARS ONLY FOUR AMERICAN CITIZENS HAVE BEEN ARRESTED IN URUGUAY; THREE BY CIVILIAN POLICE AND ONE BY THE MILITARY. END LIMITED OFFICIAL USE.

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 07-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977MONTEV02613
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770241-0907
Format: TEL
From: MONTEVIDEO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770783/aaaacubu.tel
Line Count: 84
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: db5fa66f-c288-dd11-92da-001cc4696bcc
Office: ACTION SCS
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 147704, 76 MONTEVIDEO A-44
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 18-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1938713
Secure: OPEN
Status: NATIVE
Subject: LEGAL REPRESENTATION AVAILABLE TO AMERICANS ARRESTED ABROAD
TAGS: CARR, UY
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/db5fa66f-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009